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Dated: March 10, 2009
Electronic Signature for Nicholas J. DiCeglie, Jr.: /Nicholas J. DiCeglie, Jr./

Docket No.: LeA 36 266 [81646(303989)]
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Heike Gielen-Haertwig et al.

Application No.: 10/527,386

Confirmation No.: 2246

Filed: November 17, 2005

Art Unit: 1624

For: HETEROCYCLIC DERIVATIVES

Examiner: J. H. Murray

SUPPLEMENTAL RESPONSE AFTER FINAL OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

INTRODUCTORY COMMENTS

Subsequent to the filing of a Notice of Appeal on March 3, 2009, Applicants submit herewith a terminal disclaimer and the accompanying remarks.

Remarks begin on Page 2 of this paper.

REMARKS

A Supplemental Amendment After Final was filed on February 3, 2009 and a Notice of Appeal was filed on March 3, 2009.

On Friday, March 6, 2009, Examiner, J. H. Murray called Applicants' representative, Nicholas J. DiCeglie, to discuss the Supplemental Amendment. During the conference, the Examiner stated that, in light of the Supplemental Amendment, all of the prior rejections were to be withdrawn, but indicated that there was a potential provisional obviousness-type double patenting rejection over co-pending United States Patent Application Serial No. 10/527,391 which is the 371 application of a PCT filed on the same day as the PCT application from which the instant application is the national stage entry. The Examiner suggested filing a Terminal Disclaimer over this co-pending application.

Without conceding the validity of the Examiner's contention, Applicants submit herewith a duly executed Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) over United States Patent Application Serial No. 10/527,391, thereby removing the potential obviousness-type double patenting rejection.

In view of the remarks made herein, Applicants submit that the application is in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are respectfully requested. If a telephone conference with Applicants' representative would be helpful in expediting prosecution of the application, Applicants invite the Examiner to contact the undersigned at the telephone number indicated below.

Applicants believe that no additional fees, other than the fee for the terminal disclaimer, are required in connection with this paper. Nevertheless, Applicants authorize the Director to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 04-1105, under Order No. 81646(303989).

Dated: March 10, 2009

Respectfully submitted,

Electronic signature: Nicholas J. DiCeglie, Jr.
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